

ESTTA Tracking number: **ESTTA706120**

Filing date: **11/02/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Agavera Camichines, S.A. de C.V.
Granted to Date of previous extension	11/01/2015
Address	Periferico Sur #8500, Tramo MoreliaChapala Tlaquepaque, Jalisco, C.P. 45601 MEXICO
Attorney information	Marie Anne Mastrovito Abelman Frayne & Schwab 666 Third Avenue New York, NY 10017 UNITED STATES mamastrovito@lawabel.com Phone:212 949 9022

Applicant Information

Application No	86323420	Publication date	05/05/2015
Opposition Filing Date	11/02/2015	Opposition Period Ends	11/01/2015
Applicant	DITTA SILVIO MELETTI S.R.L. ZONA INDUSTRIALE CAMPOLUNGO ASCOLI PICENO, 63100 ITALY		

Goods/Services Affected by Opposition

Class 033. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Alcoholic beverages except beers; alcoholic bitters
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2151166	Application Date	09/13/1995
Registration Date	04/14/1998	Foreign Priority Date	NONE
Word Mark	1800		
Design Mark			
Description of	NONE		

Mark	
Goods/Services	Class 033. First use: First Use: 1977/00/00 First Use In Commerce: 1977/00/00 alcoholic beverages, namely, tequila

Attachments	NOO 1870.pdf(463286 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/MAM/
Name	Marie Anne Mastrovito
Date	11/02/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. 86/323420 for the mark 1870 AND DESIGN

AGAVERA CAMICHINES, S.A. DE C.V.,

Opposer,

v.

DITTA SILVIO MELETTI S.R.L.

Applicant.

Opposition No.

NOTICE OF OPPOSITION

Agavera Camichines, S.A. de C.V., a corporation of Mexico, with a business address at Periferico Sur No. 8500, Tramo Morelia Chapala, Tlaquepaque, Jalisco C.P. 45601, MEXICO, (“Opposer”), believes that it will be damaged by registration of the above identified trademark and hereby opposes the same.

As grounds for opposition it is alleged that:

1. On June 27, 2014, Ditta Silvio Meletti S.R.L. (“Applicant”) filed an application seeking registration of the mark 1870 AND DESIGN (“Applicant’s Mark”), based on Applicant’s alleged intention to use the mark in commerce under Section 1(b) of the Trademark Act (15 U.S.C. Section 1051(b)). Said application was assigned Serial No. 86/323420 (“Applicant’s Application”).
2. Applicant’s Application covers “Alcoholic beverages except beers; alcoholic bitters” in Class 33 (Applicant’s Goods”).

3. To date, Applicant has not filed a Allegation of Use in connection with any of Applicant's Goods or Services.
4. Opposer is the owner of the mark 1800 ("Opposer's Mark") in connection with tequila and other alcoholic beverages, including prepared alcoholic cocktails ("Opposer's Goods").
5. Opposer has registered the mark 1800 both alone and in connection with other wording such as RESERVA 1800 and 1800 COLECCION. Opposer's registrations include Registration No. 2151166, which is an incontestible registration for 1800 in connection with "alcoholic beverages, namely, tequila." A TARR printout of this registration is attached.
6. Opposer commenced use of the mark 1800 in U.S. commerce in connection with tequila on or about 1977.
7. On information and belief, the Opposer's first use and registration of Opposer's Mark was well in advance of the filing date of Applicant's Application and in advance of any use Applicant has made of Applicant's Mark in U.S. commerce.
8. Applicant's Goods are closely related and/or identical to Opposer's Goods and are likely to travel within the same channels of trade.
9. Registration of Applicant's Mark, which is highly similar to Opposer's Mark and which is used in connection with goods which are closely related to Opposer's Goods is likely to cause confusion, mistake, or deception of purchasers as to the source of Applicant's Goods and is likely to falsely suggest a common association,

sponsorship or origin of said goods between Applicant and Opposer, all to Opposer's irreparable damage and injury.

10. Applicant's Mark should be precluded from registration under Sections 2(d) of the Trademark Act because it so resembles a trademark previously used and registered by Opposer and not abandoned as to be likely when used on or in connection with the Applicant's Goods to cause confusion, to cause mistake, or to deceive.

WHEREFORE, Opposer believes that it has a real interest in this proceeding and will be irreparably damaged by the registration of the Applicant's Mark, and respectfully requests that the Board sustain this Opposition and refuse the registration of the Applicant's Mark.

Respectfully submitted,


MARIE ANNE MASTROVITO

Attorney for Opposer

ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York, New York 10017
(212) 949-9022

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** was served by first class mail, postage prepaid, this 2nd day of November, 2015 upon Applicant's attorney at the address below:

Michael M. Ballard, Esq.
Sunstone IP, PLLC
222 S. Main Street
Suite 500
Salt Lake City, Utah 84101


MARIE-ANNE MASTROVITO

Generated on: This page was generated by TSDR on 2015-11-02 17:49:54 EST

Mark: 1800

US Serial Number: 74728432 Application Filing Date: Sep. 13, 1995
US Registration Number: 2151166 Registration Date: Apr. 14, 1998
Register: Principal
Mark Type: Trademark
Status: The registration has been renewed.
Status Date: Mar. 20, 2008
Publication Date: Mar. 11, 1997 Notice of Allowance Date: Jun. 03, 1997

Mark Information

Mark Literal Elements: 1800
Standard Character Claim: No
Mark Drawing Type: 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

Related Properties Information

Claimed Ownership of US Registrations: 1691849, 1761618 and others

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "*" identify additional (new) wording in the goods/services.

For: alcoholic beverages, namely, tequila

International Class(es): 033 - Primary Class

U.S Class(es): 047, 049

Class Status: ACTIVE

Basis: 1(a)

First Use: 1977

Use in Commerce: 1977

Basis Information (Case Level)

Filed Use: No	Currently Use: Yes	Amended Use: No
Filed ITU: Yes	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: AGAVERA CAMACHINES, S.A. DE C.V.
Owner Address: PERIFERICO SUR NO. 8500, TRAMO MORELIA
CHAPALA
TLAQUEPAQUE, JALISCO, C.P. 45601
MEXICO
Legal Entity Type: CORPORATION State or Country Where MEXICO
Organized:

Attorney/Correspondence Information

Attorney Name: Lawrence E. Abelman **Docket Number:** 848497
Attorney of Record
Correspondent
Correspondent Name/Address: Lawrence E. Abelman
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NEW YORK 10017
UNITED STATES
Phone: 212-9499022 **Fax:** 212-9499190
Domestic Representative
Domestic Representative Name: LAWRENCE E. ABELMAN **Phone:** 212-9499190
Fax: 212-9499190

Prosecution History

Date	Description	Proceeding Number
Mar. 20, 2008	REGISTERED AND RENEWED (FIRST RENEWAL - 10 YRS)	59136
Mar. 20, 2008	REGISTERED - SEC. 8 (10-YR) ACCEPTED/SEC. 9 GRANTED	
Mar. 06, 2008	ASSIGNED TO PARALEGAL	59136
Mar. 03, 2008	TEAS SECTION 8 & 9 RECEIVED	
May 11, 2007	CASE FILE IN TICRS	
Aug. 30, 2006	REVIEW OF CORRESPONDENCE COMPLETE	74215
Aug. 21, 2006	PAPER RECEIVED	
Jun. 12, 2004	REGISTERED - SEC. 8 (6-YR) ACCEPTED & SEC. 15 ACK.	
Apr. 12, 2004	REGISTERED - SEC. 8 (6-YR) & SEC. 15 FILED	
Apr. 12, 2004	TEAS SECTION 8 & 15 RECEIVED	
Apr. 14, 1998	REGISTERED-PRINCIPAL REGISTER	
Feb. 13, 1998	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 29, 1998	ASSIGNED TO EXAMINER	72620
Jan. 23, 1998	STATEMENT OF USE PROCESSING COMPLETE	
Dec. 03, 1997	USE AMENDMENT FILED	
Jun. 03, 1997	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 11, 1997	PUBLISHED FOR OPPOSITION	
Feb. 07, 1997	NOTICE OF PUBLICATION	
Nov. 25, 1996	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 12, 1996	CORRESPONDENCE RECEIVED IN LAW OFFICE	
May 13, 1996	NON-FINAL ACTION MAILED	
May 01, 1996	ASSIGNED TO EXAMINER	72620

Maintenance Filings or Post Registration Information

Affidavit of Continued Use: Section 8 - Accepted
Affidavit of Incontestability: Section 15 - Accepted
Renewal Date: Apr. 14, 2008

TM Staff and Location Information

TM Staff Information - None
File Location
Current Location: POST REGISTRATION **Date in Location:** Mar. 20, 2008

Assignment Abstract Of Title Information

Summary

Total Assignments: 2

Registrant: Tequila Cuervo La Rojena, S.A. de C.V.

Assignment 1 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: 2973/0284

Pages: 3

Date Recorded: Nov. 09, 2004

Supporting Documents: assignment-tm-2973-0284.pdf**Assignor**Name: TEQUILA CUERVO LA ROJENA, S.A. DE C.V.

Execution Date: Nov. 05, 2004

Legal Entity Type: CORPORATION

State or Country Where
Organized: MEXICO**Assignee**Name: AGAVERA CAMACHINES, S.A. DE C.V.

Legal Entity Type: CORPORATION

State or Country Where
Organized: MEXICOAddress: PERIFERICO SUR NO. 8500, TRAMO MORELIA CHAPALA
TLAQUEPAQUE, JALISCO, C.P., MEXICO 45601**Correspondent**

Correspondent Name: ABELMAN FRAYNE & SCHWAB

Correspondent Address: VICTOR M. TANNENBAUM
150 EAST 42ND STREET
NEW YORK, NY 10017

Domestic Representative - Not Found

Assignment 2 of 2

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: 3243/0757

Pages: 3

Date Recorded: Oct. 27, 2005

Supporting Documents: assignment-tm-3243-0757.pdf**Assignor**Name: TEQUILA CUERVO LA ROJENA, S.A. DE C.V.

Execution Date: Nov. 05, 2004

Legal Entity Type: CORPORATION

State or Country Where
Organized: MEXICO**Assignee**Name: AGAVERA CAMACHINES, S.A. DE C.V.

Legal Entity Type: CORPORATION

State or Country Where
Organized: MEXICOAddress: PERIFERICO SUR NO. 8500, TRAMO MORELIA CHAPALA
TLAQUEPAQUE, JALISCO, C.P. 45601, MEXICO**Correspondent**

Correspondent Name: VICTOR M. TANNENBAUM

Correspondent Address: ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK, NEW YORK 10017

Domestic Representative - Not Found

Proceedings**Summary**

Number of Proceedings: 4

Type of Proceeding: OppositionProceeding Number: 91203395

Filing Date: Jan 17, 2012

Status: Terminated

Status Date: Nov 17, 2012

Interlocutory Attorney: CHERYL S GOODMAN

Defendant

Name: Geoffrey Barrymore

Correspondent Address: ELAINE D PAPAS
THE LAW OFFICES OF ELAINE D PAPAS
130 W 42ND STREET, SUITE 801
NEW YORK NY, 10036
UNITED STATESCorrespondent e-mail: epapas2001@earthlink.net, elainepapas@gmail.com, lawofficeelainepapas@gmail.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
1808 VODKA	Abandoned - After Inter-Partes Decision Plaintiff(s)	<u>85196067</u>	

Name: Agavera Camachines, S.A. de C.V.

Correspondent Address: JULIE B SEYLER
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY , 10017
UNITED STATES

Correspondent e-mail: JBSeyler@lawabel.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
1800	Renewed	<u>74728432</u>	<u>2151166</u>
1800	Section 8 and 15 - Accepted and Acknowledged	<u>78981045</u>	<u>3633333</u>
1800 COLECCION	Renewed	<u>75567055</u>	<u>2449681</u>
1800 JB TRABAJO PASION HONESTIDAD	Renewed	<u>76222206</u>	<u>2600691</u>
1800 THE ULTIMATE MARGARITA	Cancelled - Section 8	<u>78442387</u>	<u>3535335</u>
RESERVA 1800	Renewed	<u>75351603</u>	<u>2547535</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jan 17, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jan 17, 2012	Feb 26, 2012
3	PENDING, INSTITUTED	Jan 17, 2012	
4	TRIAL DATES SET	Jan 23, 2012	
5	D'S MOT FOR EXTEN. OF TIME W/ CONSENT	Feb 21, 2012	
6	EXTENSION OF TIME GRANTED	Mar 08, 2012	
7	STIPULATION FOR AN EXTENSION OF TIME	Apr 24, 2012	
8	EXTENSION OF TIME GRANTED	Apr 24, 2012	
9	STIPULATION FOR AN EXTENSION OF TIME	May 25, 2012	
10	EXTENSION OF TIME GRANTED	May 25, 2012	
11	CHANGE OF CORRESPONDENCE ADDRESS	May 25, 2012	
12	STIPULATION FOR AN EXTENSION OF TIME	Jun 21, 2012	
13	EXTENSION OF TIME GRANTED	Jun 21, 2012	
14	STIPULATION FOR AN EXTENSION OF TIME	Jul 24, 2012	
15	EXTENSION OF TIME GRANTED	Jul 24, 2012	
16	STIPULATION FOR AN EXTENSION OF TIME	Aug 22, 2012	
17	EXTENSION OF TIME GRANTED	Aug 22, 2012	
18	STIPULATION FOR AN EXTENSION OF TIME	Sep 20, 2012	
19	EXTENSION OF TIME GRANTED	Sep 20, 2012	
20	STIPULATION FOR AN EXTENSION OF TIME	Oct 19, 2012	
21	EXTENSION OF TIME GRANTED	Oct 19, 2012	
22	WITHDRAWAL OF APPLICATION	Nov 15, 2012	
23	CERTIFICATE OF SERVICE FOR WITHDRAWAL OF APPLICATION	Nov 15, 2012	
24	BOARD'S DECISION: SUSTAINED	Nov 17, 2012	
25	TERMINATED	Nov 17, 2012	

Type of Proceeding: Opposition

Proceeding Number: 91198800

Status: Terminated

Filing Date: Mar 02, 2011

Status Date: Feb 07, 2012

Interlocutory Attorney: YONG OH (RICHARD) KIM

Defendant

Name: Virtuoso Distillers LLC dba Virtuoso Distillers LLC

Correspondent Address: STEVEN ROSS
VIRTUOSO DISTILLERS LLC
4211 GRAPE ROAD
MISHAWAKA IN , 46545
UNITED STATES

Correspondent e-mail: jedross@gmail.com , ross@18vodka.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
18 VODKA	Registered	<u>77958375</u>	<u>4501971</u>

Plaintiff(s)

Name: Agavera Camachines, S.A. de C.V.

Correspondent Address: MARIE ANNE MASTROVITO
ABELMAN FRAYNE SCHWAB
666 THIRD AVENUE
NEW YORK NY , 10017
UNITED STATES

Correspondent e-mail: MAMastrovito@lawabel.com , Rdahl@lawabel.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
1800	Renewed	<u>74728432</u>	<u>2151166</u>
RESERVA 1800	Renewed	<u>75351603</u>	<u>2547535</u>
1800 COLECCION	Renewed	<u>75567055</u>	<u>2449681</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Mar 02, 2011	Apr 11, 2011
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Mar 02, 2011	
3	PENDING, INSTITUTED	Mar 02, 2011	
4	NOTICE OF DEFAULT	Apr 27, 2011	
5	BOARD'S DECISION: SUSTAINED	Jun 15, 2011	
6	TERMINATED	Jun 15, 2011	
7	REQ FOR RECNSDRATN FROM FINAL BD DCSN	Jun 16, 2011	
8	SUSPENDED	Jul 19, 2011	
9	STIPULATION FOR AN EXTENSION OF TIME	Aug 12, 2011	
10	EXTENSION OF TIME GRANTED	Aug 15, 2011	
11	NOTICE OF DEFAULT	Dec 09, 2011	
12	BOARD'S DECISION: SUSTAINED	Jan 27, 2012	
13	STIPULATION FOR AN EXTENSION OF TIME	Jan 31, 2012	
14	TRIAL DATES RESET	Apr 19, 2012	
15	ANSWER	May 16, 2012	
16	P NOTICE OF RELIANCE	Mar 12, 2013	
17	W/DRAW OF OPPOSITION	Mar 13, 2013	
18	W/DRAW OF OPPOSITION	Mar 13, 2013	
19	BD DECISION: DISMISSED W/O PREJ	Apr 09, 2013	

Type of Proceeding: Opposition

Proceeding Number: 91198622

Filing Date: Feb 16, 2011

Status: Terminated

Status Date: Feb 13, 2012

Interlocutory Attorney: GEORGE POLOGEORGIS

Defendant

Name: Auryn Industries LLC

Correspondent Address: STEPHEN A KENNEDY
KENNEDY CLARK WILLIAMS PC

1700 PACIFIC AVE , SUITE 1280
DALLAS TX , 75201 4684
UNITED STATES

Correspondent e-mail: zduffy@mkwpc.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
1888	Registered	<u>85039104</u>	<u>4113685</u>
Plaintiff(s)			

Name: Agavera Camichines, S.A. de C.V.

Correspondent Address: MARIE ANNE MASTROVITO
ABELMAN FRAYNE SCHWAB
666 THIRD AVENUE
NEW YORK NY , 10017
UNITED STATES

Correspondent e-mail: MAMastrovito@lawabel.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
1800	Renewed	<u>74728432</u>	<u>2151166</u>
RESERVA 1800	Renewed	<u>75351603</u>	<u>2547535</u>
1800 COLECCION	Renewed	<u>75567055</u>	<u>2449681</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Feb 16, 2011	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Feb 16, 2011	Mar 28, 2011
3	PENDING, INSTITUTED	Feb 16, 2011	
4	D'S APPEARANCE OF COUNSEL/POWER OF ATTORNEY	Mar 28, 2011	
5	ANSWER	Mar 28, 2011	
6	STIPULATION FOR AN EXTENSION OF TIME	May 27, 2011	
7	EXTENSION OF TIME GRANTED	Jun 02, 2011	
8	STIPULATION FOR AN EXTENSION OF TIME	Jun 29, 2011	
9	EXTENSION OF TIME GRANTED	Jun 29, 2011	
10	STIPULATION FOR AN EXTENSION OF TIME	Sep 19, 2011	
11	EXTENSION OF TIME GRANTED	Sep 19, 2011	
12	STIPULATION FOR AN EXTENSION OF TIME	Dec 05, 2011	
13	EXTENSION OF TIME GRANTED	Dec 05, 2011	
14	MOTION TO AMEND APPLICATION	Jan 23, 2012	
15	RESPONSE DUE 30 DAYS (DUE DATE)	Jan 30, 2012	Feb 29, 2012
16	WITHDRAWAL OF OPPOSITION	Feb 09, 2012	
17	BD'S DECISION: DISMISSED W/O PREJUDICE	Feb 13, 2012	
18	TERMINATED	Feb 13, 2012	

Type of Proceeding: Opposition

Proceeding Number: 91196849

Filing Date: Oct 08, 2010

Status: Terminated

Status Date: Mar 31, 2011

Interlocutory Attorney: JENNIFER KRISP

Defendant

Name: LiDestri Foods, Inc.

Correspondent Address: DARREN M GELIEBTER
LOMBARD & GELIEBTER LLP
1115 BROADWAY, 12TH FLOOR
NEW YORK NY , 10010
UNITED STATES

Correspondent e-mail: dgeliebter@lqtrademark.com

Associated marks

Mark	Application Status	Serial	Registration
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BRAND 1834 TRADEMARK	Abandoned - After Inter-Partes Decision	Number <u>77857650</u>	Number
Plaintiff(s)			

Name: Agavera Camachines, S.A. de C.V.

Correspondent Address: LAWRENCE E ABELMAN
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY , 10017
UNITED STATES

Correspondent e-mail: EHalstead@lawabel.com , LEABELMAN@lawabel.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
1800	Renewed	<u>74728432</u>	<u>2151166</u>
1800	Section 8 and 15 - Accepted and Acknowledged	<u>78981045</u>	<u>3633333</u>
1800 COLECCION	Renewed	<u>75567055</u>	<u>2449681</u>

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Oct 08, 2010	Nov 18, 2010
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Oct 09, 2010	
3	PENDING, INSTITUTED	Oct 09, 2010	
4	STIP TO SUSPEND PEND SETTLEMENT NEGOTNS	Nov 01, 2010	
5	SUSPENDED	Nov 01, 2010	
6	STIPULATION FOR AN EXTENSION OF TIME	Feb 16, 2011	
7	EXTENSION OF TIME GRANTED	Feb 16, 2011	
8	CHANGE OF CORRESPONDENCE ADDRESS	Feb 16, 2011	
9	WITHDRAWAL OF APPLICATION	Mar 23, 2011	
10	WITHDRAWAL OF OPPOSITION	Mar 25, 2011	
11	BD'S DECISION: DISMISSED W/ PREJUDICE	Mar 31, 2011	
12	TERMINATED	Mar 31, 2011	